

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STUDENTS FOR FAIR ADMISSIONS, INC.,

Plaintiff,

Civil Action
No. 14-14176-ADB

v.

October 22, 2018

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE, et al.,

Pages 1 to 244

Defendants.

SEALED TRANSCRIPT

TRANSCRIPT OF BENCH TRIAL - DAY 6
BEFORE THE HONORABLE ALLISON D. BURROUGHS
UNITED STATES DISTRICT COURT
JOHN J. MOAKLEY U.S. COURTHOUSE
ONE COURTHOUSE WAY
BOSTON, MA 02210
REDACTED

JOAN M. DALY, RMR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 5507
Boston, MA 02210
joanmdaly62@gmail.com

P R O C E E D I N G S

(The following proceedings were held in open court before the Honorable Allison D. Burroughs, United States District Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, One Courthouse Way, Boston, Massachusetts, on October 22, 2018.)

THE CLERK: All rise. Court is in session. Please be seated.

THE COURT: Good morning, everyone. Karen just gave me a copy of an email that you all had shared with her. Do you want to discuss that at sidebar?

MR. LEE: Briefly, sure.

THE COURT: Come on up.

(The following was held at sidebar and is deemed "sealed".)

THE COURT: I'm happy to discuss this to the extent that you want. There are things that you true in here and things that aren't true. To the extent it matters or anybody wants to know what's true and isn't true, I'm happy to go through it.

[REDACTED]

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[REDACTED]

MR. LEE: From our perspective, Your Honor, we just didn't want you to be surprised. We're not asking you to do anything. We're not asking for recusal. We're not even asking for an explanation. I think it's probably good for us both to put that on the record. But mostly we didn't want you to be surprised tomorrow morning.

THE COURT: How about you guys?

MR. MORTARA: We have absolutely nothing to say about this, Your Honor.

[REDACTED]

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THE COURT: As long as I have you here on a completely different topic which I also don't want to raise in open court. My understanding from something that was said earlier in the trial is that you all are not intending on putting in the applications of the parties that you represent.

MR. MORTARA: That's correct, Your Honor.

THE COURT: Again I'm not going to put this on the open record because it's your case to try. I am interested in those applications if you have any interest in revisiting that. And the reason is that -- this case is largely about sort of statistical analysis, but we've seen the applications of some people that did get in. And I suspect if the application said on its face "not admitting another Asian" you would have admitted it, right?

MR. MORTARA: Absolutely, yes.

THE COURT: I'm wondering if there's other things that make it apparent in the application why they're not being admitted as contrast with people that are being admitted.